

**ORDINANCE NO. 6  
SERIES 2000**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, AUTHORIZING THE NEGOTIATION, EXECUTION, AND DELIVERY OF A MASTER LEASE-PURCHASE AGREEMENT IN THE PRINCIPAL AMOUNT OF \$129,860.00, BETWEEN FRONTIER LEASING CORPORATION, AS LESSOR AND THE CITY OF GUNNISON, AS LESSEE, UNDER WHICH THE LESSEE WILL LEASE CERTAIN FRONT END LOADER EQUIPMENT; AND PRESCRIBING OTHER DETAILS IN CONNECTION THEREWITH.**

**WHEREAS,** the City of Gunnison (the “City”) is duly organized and validly existing as a home rule city under the Constitution and laws of the State of Colorado, and its home rule charter (the “Charter”); and

**WHEREAS,** the City Council (the “City Council”) of the City is authorized pursuant to Section 8.9 of the Charter and Sections 31-15-101(1)(c) and (d), 31-15-302(1)(a) and 31-15-801, Colorado Revised Statutes, to enter into contracts, to acquire, hold, lease and dispose of property, both real and personal, to control the finances and property of the City and to enter into rental or leasehold agreements, with or without an option to purchase the leased property, in order to provide land, buildings, equipment and other property for governmental or proprietary purposes; and

**WHEREAS,** the City Council hereby finds and determines that the execution of a Master Lease-Purchase Agreement (the “Equipment Lease”) for the purpose of leasing with the option to purchase the equipment designated and set forth in Schedule A to the Equipment Lease is appropriate and necessary to the function and operations of the City; and

**WHEREAS,** Frontier Leasing Corporation (the “Lessor”), duly organized, existing, and in good standing under the laws of the State of North Dakota, shall act as Lessor under the Equipment Lease; and

**WHEREAS,** the obligation of the City to pay Rental Payments (as defined in the Equipment Lease) shall be from year to year only; shall constitute currently budgeted expenditures of the City; shall not constitute a mandatory charge or requirement in any ensuing budget year; and shall not constitute a general obligation or a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the City within the meaning of any constitutional or statutory limitation or requirement concerning the creation of indebtedness, nor a mandatory payment obligation of the City in any ensuing fiscal year beyond any fiscal year during which the Equipment Lease shall be in effect; and

**WHEREAS,** the Equipment Lease shall not directly or indirectly obligate the City to make any payments beyond those appropriated for any fiscal year during which the Equipment Lease shall be in effect and the Equipment Lease shall terminate (or not be renewed) in the event that the City does not appropriate Rental Payments under the Equipment Lease;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, ORDAINS THAT:**

- Section 1.      The Mayor and the Finance Director acting on behalf of the City, are hereby authorized to negotiate, enter into, execute, and deliver the Equipment Lease in substantially the form set forth in the document presently before the City Council, which document is available for public inspection at the office of the Finance Director. The Mayor and Finance Director acting on behalf of the City, are hereby authorized to negotiate, enter into, execute, and deliver such other documents relating to the Equipment Lease, as the Mayor and Finance Director upon advice of counsel, deem necessary and appropriate. The Finance Director is authorized to execute the Receipt Certificate(s) in form as attached to the Equipment Lease.

- Section 2. The Equipment Lease shall be in the principal amount of \$129,860.00 bearing interest as set forth in Exhibit B of the Equipment Lease; the Equipment Lease to contain an option to purchase by the City as therein set forth.
- Section 3. The obligation of the City to make Rental Payments under the Equipment Lease is subject to annual appropriation by the City Council and constitutes an undertaking of the City to make current expenditures. No provision of this ordinance or the Equipment Lease shall be construed or interpreted as a delegation of governmental powers or as constituting or giving rise to a general obligation or other indebtedness or a multiple fiscal year direct or indirect debt or other financial obligation of the City within the meaning of any constitutional or statutory debt limitation, including without limitation, Article XI, Sections 1, 2, and 6, and Article X, Section 20, of the Colorado Constitution, nor a mandatory charge or requirement against the City in any ensuing fiscal year beyond the current fiscal year. The City shall have no obligation to make any payment to the Lessor or its assigns except in connection with the payment of the Rental Payments under the Equipment Lease and certain other payments, for which funds have been specifically appropriated and encumbered by the City for such purpose, under the Equipment Lease, which payments may be terminated (and the Equipment Lease not renewed) by the City in accordance with the provisions of the Equipment Lease.
- Section 4. The City Council hereby determines and declares that (a) the Rental Payments due under the Equipment Lease constitute the fair rental value of the Equipment and do not exceed a reasonable amount; and (b) the leasing of the Equipment pursuant to the Equipment Lease is in the best interests of the City and its inhabitants.
- Section 5. All other related contracts and agreements, necessary and incidental to the Equipment Lease are hereby authorized.
- Section 6. The City reasonably anticipates to issue not more than \$10,000,000 of tax-exempt obligations (other than “private activity bonds” which are not “qualified 501(c)(3) bonds”) during the period from January 1, 2000, to December 31, 2000, and hereby designates the Equipment Lease as a qualified tax-exempt obligation for purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended.
- Section 7. This ordinance shall take effect immediately upon its adoption and approval on second and final reading.

**INTRODUCED, READ, PASSED, AND ORDERED PUBLISHED** this 25th day of April, 2000, on first reading, and introduced, read, and adopted on second and final reading this 9th day of May, 2000.

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Mayor

ATTEST:

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City Clerk